



MEMORANDUM

To: PLANNING COMMISSION

Date: June 13, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: USE PERMIT APPLICATION, UP-05-09: Cochrane-Cingular
Wireless**

REQUEST

The applicant is requesting approval of a conditional use permit to allow the installation of a new tree pole for the mounting of 6 panel antennas. The accessory equipment will be on the ground screened by an existing CMU enclosure. It is located in rear parking lot behind the Cochrane Plaza shopping center at 144 Cochrane Road. (APN: 726-32-009)

RECOMMENDATION

Environmental Assessment: Categorically exempt under section 15303 of the CEQA Guidelines.

Use Permit UP-05-09: Adopt Resolution approving the Use Permit

Processing Deadline: March 16, 2006

SITE DESCRIPTION

Location: 144 Cochrane Plaza
Site Area: 6.47 Acres
Zoning: Planned Unit Development PUD
General Plan: Commercial

CASE ANALYSIS

The applicant is requesting approval to install a new tree pole to mount six telecommunications panel antennas with accessory equipment to be located on the ground screened by a CMU enclosure located at 144 Cochrane Plaza in the PUD (Planned Unit Development) Commercial District. For a detailed description of the

proposed use, please refer to the applicant's Letter of Justification and Statement of Operations (attached for the Commission's reference).

USE PERMIT FINDINGS

The required findings for a Conditional Use Permit are contained in Section 18.54.050(B) of the Municipal Code and read as follows:

- A. The site is suitable and adequate for the proposed use.**
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.**
- C. The proposed use at the location will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare.**
- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.**

Site Suitability:

The surrounding uses are built out commercial shopping and industrial buildings with a variety of uses from Target, Mervyns, Extend Stay America Hotel, administrative offices, research and development, and small manufacturing.

The proposed antennas and equipment are located in the rear of the Mervyn's Store building in an underutilized parking area for the Cochrane Shopping Center. The applicant proposes to lease a 280 square foot area to construct a CMU enclosure for the proposed 51 ft high tree pole and screen the proposed equipment cabinets. The enclosure would take over 2 parking spaces.

On the same lot, there is an existing 51 ft high T-Mobile flag pole with antennas to the south of the proposed tree pole. On the neighboring lot to the south at the Extended Stay America Inn there is a Metro PCS flag pole. The Metro PCS flag pole was approved in 2004 with the condition to allow for co-location.

Staff's recommendation has been to co-locate Cingular's antennas onto Metro PCS's existing flag pole. Cingular has contested that the flag pole is not adequate to support their antennas. Staff has contacted Metro PCS to verify that the flag pole was built per their condition and have provided the Commission with their response. No evidence has been provided from either Cingular or Metro PCS to show that the Metro PCS flag pole is inadequate for co-location.

Circulation:

Access to the site will be provided via Jarvis Drive behind the building in a gated enclosure leasing area. The use will be unmanned. A Cingular Wireless technician may visit the site once a month for routine maintenance. The proposed use would not have a substantial adverse effect on traffic circulation or on the planned capacity of the street system.

General Welfare:

The proposed use would not have an affect on the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to the public health, safety or general welfare. The site would be considered similar in character with its surrounding uses, but could eliminate the visual impacts by co-locating on the neighboring Jarvis Extended Stay Hotel flag pole site.

Design:

The proposed tree pole could potentially blend in with the existing tree line existing along the backside of the property along Cochrane and the freeway. The possibly co-location of antennas on the existing flag pole on the neighboring property would eliminate need for an alternative tree pole design to visual blend the antennas from surrounding properties. A third cell phone tower at this location is also too many and created visual clutter.

RECOMMENDATION

Staff recommends approval of the conditional use permit with the condition to co-locate on the Metro-PCS flag pole.

Attachments:

- Letter of Justification/Statement of Proposed Operations
- Resolution of Approval
- Vicinity Map
- Plans

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO APPROVE CO- LOCATION OF ANTENNAS ON AN EXISTING FLAG POLE LOCATED AT THE EXTENDED STAY AMERICA HOTEL AT 605 JARVIS DRIVE (APN: 726-32-017)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of June 13, 2006, at which time the Planning Commission approved application UP-05-09: Cochrane-Cingular; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The project is categorically exempt from environmental assessment in accordance with Section 15303 of the State CEQA Guidelines.

SECTION 3. The proposed use permit amendment has been found consistent with the criteria for use permit approval contained in Section 18.54.050 of the Municipal Code.

SECTION 4. The approved project shall be subject to the following conditions:

- A. Signed Resolutions. Within 30 days of Use Permit approval, the applicant shall submit two (2) signed copies of this Resolution No. to the Planning Division.
- B. Time Limitations. The Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months from the effective date of this Resolution. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date.
- C. Use Approval. The use shall operate consistent with the applicant's Statement of Proposed Operations, date stamped March 7, 2006, on file with the Planning Division.
- D. Annual Review. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The

Department may initiate corrective action as specified in the aforementioned Code Section as necessary to ensure compliance with said conditions.

E. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of applicant's project. In addition, developer shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, developer shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted.

F. Other Conditions:

1. Submit minimum six (6) complete sets of working drawings and specifications. Building plans shall be drawn at a minimum 1/4" scale. Minimum sheets size shall be 18"x24". Submit minimum— six (6) complete sets of drawings for all commercial and or industrial buildings. (UBC 106.3.3)
2. Structure must constructed to all current code requirements for seismic zone 4 and wind loads of 70 mph exposure "C",
3. There shall be joint use of the facility with emergency services of the City, dependent upon technological feasibility and a written approval/lease agreement between the city and the property owner.
4. Any user of the site must remove the equipment (or be financially responsible) if the site is abandoned or the equipment is switched out.
5. Following the commencement of operations, field tests shall be conducted to ensure radio frequency electromagnetic field environments do not exceed Federal guidelines. The results of the test shall be submitted to the Morgan Hill Planning Department for filing and future reference.
6. RF warning signs in English and Spanish shall be posted around the equipment cabinets.
7. Co-location on the existing flagpole at 605 Jarvis Dr. in front of the Extended Stay America Hotel.

PASSED AND ADOPTED THIS 13th DAY OF JUNE, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH
Deputy City Clerk

Ralph Lyle, Chair

AFFIDAVIT

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Applicant

Date



Ruth and Going, Inc.

Engineering
Planning

Mailing Address:
P.O. Box 26460
San Jose
CA 95159-6460

2216 The Alameda
Santa Clara
CA 95050
Ph: (408) 236-2400
Fax: (408) 236-2410

August 9, 2005

City of Morgan Hill
Department of Community Development
17555 Peak Avenue
Morgan Hill, CA 95037

Re: Cingular Wireless Site SJ 902
144 Cochrane Road

PLANNING DEPT.

AUG 16 2005

CITY OF MORGAN HILL

LETTER OF JUSTIFICATION

1. Is the site suitable and adequate for the proposed use?: Yes. The subject site is a large, retail commercial shopping center, with adequate space to accommodate the project. The design of the proposed artificial tree, with antennas, will be visually compatible with the existing use.
2. Would the proposed use and design have a substantial adverse effect on traffic circulation and on the planned capacity of the street system?: No. The proposed project will not have any effect on the parking or circulation of the site. The project will have no impacts on the street system capacity, as it will be an unstaffed facility, and will not generate any traffic.
3. Would the proposed use at the location requested: adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or Impair the utility or value of property of other persons located in the vicinity of the site; or Be detrimental to the public health, safety or general welfare? No. The design, location and operating characteristics of the facility will result in no physical impacts, or adverse aesthetic side effects. The site will operate in compliance with all applicable government standards under its license with the Federal Communications Commission.
4. Is the design of the project compatible with the existing and proposed development within the district and its surroundings? Yes. The antennas will be hidden within the artificial tree, which will be an appropriate addition to the existing, commercial use of the

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CINGULAR WIRELESS

property. The associated equipment cabinets will be screened by a fence, and landscaping.

5. Will the proposed use allow retail sales of groceries, food or beverage items upon automobile service station premises? No.

STATEMENT OF PROPOSED OPERATIONS

The antenna facility will be an independent, unstaffed site. The only activity would be approximately one vehicle trip per month of routine maintenance. The active equipment consist of the antennas, and associated equipment cabinets, which contain computerized switching equipment.

Sincerely,

Luke Stamos
Planning Consultant for Cingular Wireless



Ruth and Going, Inc.

03-82A SJ-902

08/15/05

Engineering
Planning

To: City of Morgan Hill Planning

From: Luke Stamos, Planning Consultant Representing Cingular Wireless

Re: Land Use Application for a Cell Site at Cochran Plaza

Mailing Address:
P.O. Box 26460
San Jose
CA 95159-6460

On behalf of Cingular Wireless, we are submitting this Land Use Application to install a wireless antenna site for Cingular Wireless. On November 26, 2002, Cingular Wireless obtained a Conditional Use Permit to install a flag pole antenna 34 feet Southeast from this application site. Said approval is UP-02-08.

In 2004 SBC who owns Cingular Wireless bought AT&T. Because of this transaction the FCC ordered SBC to sell their existing Cingular Network, so that they would not have a monopoly in the Wireless Carriers Network. SBC sold their network to T-Mobile. Consequently, the flag pole antenna site 34 feet away is no longer Cingular's.

This request is to install a 51 foot high artificial antenna tree to fill a needed hole in the existing new Cingular Network.

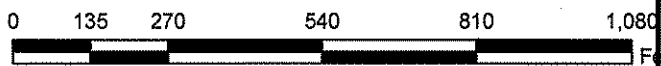
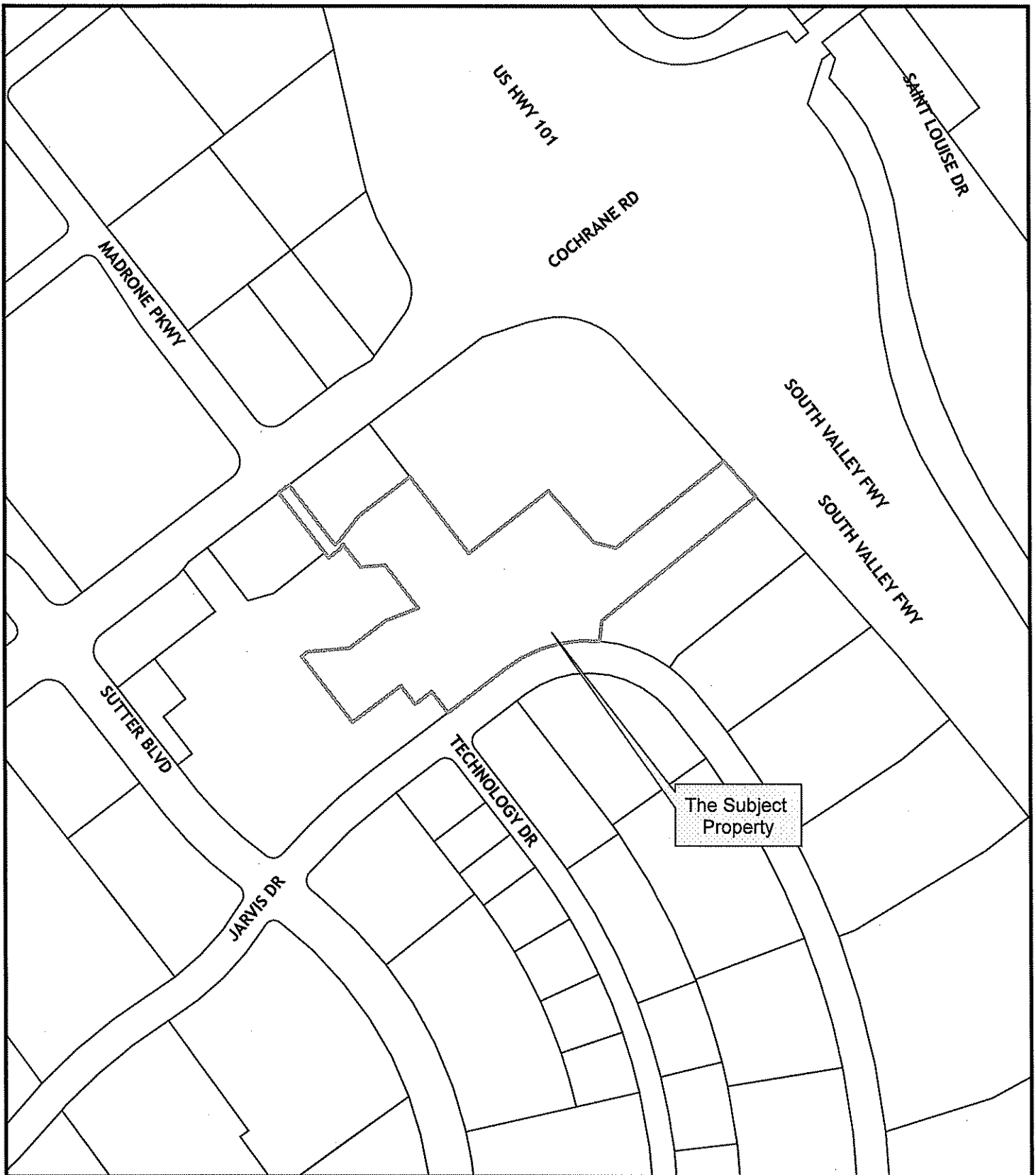
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PLANNING DEPT.

AUG 16 2005

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Vicinity Map

